

AMENDED IN SENATE JUNE 5, 2003

AMENDED IN SENATE MAY 14, 2003

AMENDED IN SENATE APRIL 28, 2003

SENATE BILL

No. 398

Introduced by Senator Romero
(Coauthor: Assembly Member Diaz)

February 20, 2003

An act to amend Sections 1812.501, 1812.502, 1812.524, 1812.525, 1812.526, 1812.527, 1812.528, 1812.529, 1812.530, 1812.531, 1812.532, and 1812.533 of the Civil Code, and to add Sections 1264.1 and 1264.2 to, and to repeal and add Chapter 2.3 (commencing with Section 1400) of Section 1264.1 to, and to add Chapter 2.32 (commencing with Section 1414) to Division 2 of, the Health and Safety Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 398, as amended, Romero. Health care ~~referral~~-employment agencies.

(1) The Employment Agency, Employment Counseling, and Job Listing Services Act provides for the licensing and regulation of employment agencies, including nurses' registries.

This bill would require licensure of a health care employment agency, as defined, to refer a worker to a "covered facility," as defined, to include a general acute care hospital, acute psychiatric hospital, or other acute care facility, or an extended care facility, skilled nursing facility, or intermediate care facility, or a distinct part of a facility providing extended care services, skilled nursing care, or intermediate care, that is located in this state. This bill would provide that a health

care employment agency that is required to be licensed by this bill may not refer a worker who is required to be licensed or certified by the laws of this state to a covered facility without ensuring that the worker is licensed or certified. The bill would specify administrative and civil penalties for violating these health care employment agency licensure and regulatory provisions.

(2) The Employment Agency, Employment Counseling, and Job Listing Services Act defines employment agency for the purposes of the act.

This bill would expressly include within the act's definition of "employment agency" a ~~referral health care employment agency~~. The bill would define a referral agency as a private agency that engages in the business of referring workers to a general acute care hospital, acute psychiatric hospital, or other acute care facility, or an extended care facility, skilled nursing facility, or intermediate care facility, or a distinct part of a facility providing extended care services, skilled nursing care, or intermediate care, that is located in this state.

The bill would provide that unless otherwise provided in the act, a ~~referral health care employment~~ agency shall not be required to comply with certain general requirements applicable to employment agencies, but instead would be required to comply with specific requirements applicable to nurses' registries.

~~(2)~~

(3) Existing law provides that the act does not apply to any person who provides services otherwise covered under the act who charges fees exclusively to employers for those services.

This bill would provide, instead, that the act shall apply to all nurses' registries and ~~referral health care employment~~ agencies whether or not they charge fees exclusively to employers.

~~(3)~~

(4) Existing law requires a nurses' registry to maintain a bond issued by an admitted surety company and to file that bond with the Secretary of State, or to make a specified deposit in lieu of a bond.

Existing law prohibits various activities related to false, misleading, or deceptive advertisements and representations by a nurses' registry, specifies requirements for advertisements, and requires a nurses' registry to maintain a record of all advertisements.

Existing law specifies various requirements of a nurses' registry with respect to continuing care contracts, distribution of a fee schedule and

payment terms, verification of jobseeker qualifications, maintenance of log sheets and other records, and fee prohibitions.

This bill would apply these provisions to a ~~referral~~ *health care employment agency*.

~~(4)~~

(5) Existing law provides for the licensure and regulation of health facilities by the State Department of Health Services. A violation of these provisions is a crime.

This bill would prohibit a health facility from using an employee on a temporary basis when a permanent employee with appropriate qualifications is, or should be known by the employer to be, available to work. The bill would require a health facility that uses an employee on a temporary basis to evaluate the employee, as prescribed, and provide a designated orientation.

~~The bill would also require certain health facilities, prior to hiring a permanent worker, other than a certified or licensed health care practitioner, to ensure that a background check is conducted for unprofessional conduct, conviction of a felony or any offense substantially related to the worker's qualifications, functions, and duties, and other conduct.~~

Because the bill would add to the requirements of a health facility, a violation of which would be a crime, it would impose a state-mandated local program.

~~(5) Existing law provides for the licensure and regulation by the department of referral agencies that refer, or of a person who refers, any person for remuneration to any extended care, skilled nursing home, or intermediate care facility or a distinct part of a facility providing extended care, skilled nursing home care, or intermediate care.~~

~~This bill would repeal these, and enact similar, licensing provisions. The bill would require licensure of a referral agency to refer a worker to a "covered facility," as defined, to include those health facilities described in (1).~~

~~This bill would provide that a referral agency that is required to be licensed by this bill may not refer a worker who is required to be licensed or certified by the laws of this state to a covered facility without ensuring that the worker is licensed or certified.~~

~~This bill would require, prior to referring a worker, other than a certified or licensed health care practitioner, to a covered facility on a temporary basis, a referral agency to ensure that a background check is conducted for unprofessional conduct, conviction of a felony or any~~

~~offense substantially related to the worker's qualifications, functions, and duties, and other conduct.~~

~~The bill would specify administrative and civil penalties for violating these referral agency licensure and regulatory provisions.~~

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Health care ~~referral~~ *employment* agencies are being used to
4 provide temporary workers to health facilities in California.

5 (b) Permanent employees have been shown by experience to be
6 superior to temporary employees in the health care setting.

7 (c) Overuse of temporary employees results in higher costs to
8 California's system of health care delivery, disrupts continuity of
9 care, and negatively affects the quality of health care.

10 SEC. 2. (a) It is the intent of the Legislature in enacting this
11 act that health care ~~referral~~ *employment* agencies be licensed and
12 regulated by the state to ensure that all Californians are provided
13 competent and qualified health care personnel, that the agencies
14 are reputable businesses that follow lawful business and
15 employment practices, and that all health care facilities be given
16 the information they need to make informed choices about the
17 qualifications of health care workers referred by referral agencies.

18 (b) It is further the intent of the Legislature in enacting this act
19 that temporary employees should be used only when necessary,
20 and to the extent that temporary employees are used, they should
21 be evaluated for competency at least as often as permanent
22 employees.

23 SEC. 3. Section 1812.501 of the Civil Code is amended to
24 read:

1 1812.501. (a) The term “employment agency” or “agency”
2 means:

3 (1) Any person who, for a fee or other valuable consideration
4 to be paid, directly or indirectly by a jobseeker, performs, offers
5 to perform, or represents it can or will perform any of the following
6 services:

7 (A) Procures, offers, promises, or attempts to procure
8 employment or engagements for others or employees for
9 employers.

10 (B) Registers persons seeking to procure or retain employment
11 or engagement.

12 (C) Gives information as to where and from whom this help,
13 employment, or engagement may be procured.

14 (D) Provides employment or engagements.

15 The term “employment agency” or “agency” shall not mean
16 or include any employment counseling service or any job listing
17 service.

18 (2) Any person who offers, as one of its main objects or
19 purposes, to procure employment for any person who will pay for
20 its services, or that collects dues, tuition, or membership or
21 registration fees of any sort, where the main object of the person
22 paying the same is to secure employment.

23 (3) Any person who, for a fee or other valuable consideration,
24 procures, offers, promises, provides, or attempts to procure
25 babysitting or domestic employment for others or domestics or
26 babysitters for others.

27 (b) (1) The term “employment counseling service” means
28 any person who offers, advertises, or represents that the service can
29 or will provide any of the following services for a fee: career
30 counseling, vocational guidance, aptitude testing, executive
31 consulting, personnel consulting, career management, evaluation,
32 or planning, or the development of resumés and other promotional
33 materials relating to the preparation for employment. The term
34 “employment counseling service” shall not mean or include
35 persons who provide services strictly on an hourly basis with no
36 financial obligation required of the consumer beyond the hourly
37 fee for services rendered. An “employment counseling service”
38 does not include the functions of an “employment agency” as
39 defined in subdivision (a).

1 (2) The term “employment counseling service” does not
2 include:

3 (A) Businesses that are retained by, act solely on behalf of, and
4 are compensated solely by prior or current employers and that do
5 not require any “customer” to sign a contract and do not in any
6 way hold any “customer” liable for fees.

7 (B) Any provider of vocational rehabilitation in which the
8 counseling services are paid for by insurance benefits, where the
9 counseling is provided as a result of marital dissolution or
10 separation proceedings to prepare one of the spouses for reentry
11 into the job market and where the fees are paid by some party other
12 than the person receiving the counseling services.

13 The exemption provided in this subparagraph does not apply to
14 any vocational rehabilitation counselor who receives any
15 payments directly from the individual customer receiving the
16 counseling.

17 (C) Any person who engages solely in the preparation of
18 resumés and cover letters, provided that the resumé writing service
19 does not advertise or hold itself out as offering other job seeking
20 or placement services and does not charge more than three hundred
21 dollars (\$300) for any resumé, cover letter, or combination of both
22 to any single customer in any individual transaction.

23 (D) Any public educational institution.

24 (E) Any private educational institution established solely for
25 educational purposes that offers, as a part of its curriculum,
26 employment counseling to its student body and that conforms to
27 the requirements of Article 4 (commencing with Section 94760)
28 of Chapter 7 of Part 59 of the Education Code.

29 (F) A psychologist or psychological corporation licensed
30 pursuant to Chapter 6.6 (commencing with Section 2900) of
31 Division 2 of the Business and Professions Code, providing
32 psychological assessment, career or occupational counseling, or
33 consultation and related professional services within their scope of
34 practice.

35 (G) Educational psychologists licensed pursuant to Article 5
36 (commencing with Section 4986) of Chapter 13 of Division 2 of
37 the Business and Professions Code, providing counseling services
38 within their scope of practice.

39 (c) The term “job listing service” means any person who
40 provides, offers, or represents it can or will provide any of the

1 following services, for a fee or other valuable consideration to be
2 paid, directly or indirectly, by the jobseeker in advance of, or
3 contemporaneously with, performance of these services: matching
4 jobseekers with employment opportunities, providing or offering
5 to provide to jobseekers lists of employers, lists of job openings,
6 or like publications, or preparing resumés or lists of jobseekers for
7 distribution to potential employers.

8 (d) (1) A “nurses’ registry” as defined in subdivision (b) of
9 Section 1812.524 is an employment agency. However, unless
10 otherwise provided for in this title, a nurses’ registry shall not be
11 required to comply with Chapter 2 (commencing with Section
12 1812.503) regulating employment agencies but, instead, shall be
13 required to comply with Chapter 7 (commencing with Section
14 1812.524).

15 (2) A ~~“referral”~~ *“health care employment agency”* as defined in
16 subdivision (d) of Section 1812.524 is an employment agency.
17 However, unless otherwise provided for in this title, a ~~referral~~
18 *health care employment* agency shall not be required to comply
19 with Chapter 2 (commencing with Section 1812.503) regulating
20 employment agencies but, instead, shall be required to comply
21 with Chapter 7 (commencing with Section 1812.524).

22 (3) Notwithstanding subdivision (a) of Section 1812.502, this
23 title shall apply to all nurses’ registries and ~~referral~~ *health care*
24 *employment* agencies whether or not they charge fees exclusively
25 to employers.

26 (e) “Jobseeker” means a person seeking employment.

27 (f) “Employer” means any individual, company, partnership,
28 association, corporation, agent, employee, or representative for
29 whom or for which an employment agency or job listing service
30 attempts to obtain an employee or to place a jobseeker.

31 (g) “Job order” means any written or oral instruction,
32 direction, or permission granted by an employer or its agent to an
33 employment agency or job listing service to refer jobseekers for
34 a specified job.

35 (h) “Domestic agency” means any agency that provides, or
36 attempts to provide, employment by placement of domestic help
37 in private homes.

38 (i) “Deposit” means any money or valuable consideration
39 received by an employment agency or job listing service from a

1 jobseeker for referring the jobseeker to a position of employment
2 prior to the jobseeker's acceptance of a position.

3 (j) "Fee" means:

4 (1) Any money or other valuable consideration paid, or
5 promised to be paid, for services rendered or to be rendered by any
6 person conducting an employment agency, employment
7 counseling service, or job listing service under this title.

8 (2) Any money received by any person in excess of that which
9 has been paid out by him or her for transportation, transfer of
10 baggage, or board and lodging for any applicant for employment.

11 (k) "Registration fee" means any charge made, or attempted to
12 be made, by an employment agency for registering or listing an
13 applicant for employment, for letter writing, or any charge of a like
14 nature made, or attempted to be made without having a bona fide
15 order for the placement of the applicant in a position.

16 (l) "Person" means any individual, corporation, partnership,
17 limited liability company, trust, association, or other organization.

18 (m) This section shall become operative on January 1, 1997.

19 SEC. 4. Section 1812.502 of the Civil Code is amended to
20 read:

21 1812.502. (a) Except as provided in paragraph (3) of
22 subdivision (d) of Section 1812.501, this title does not apply to any
23 person who provides any of the services described in subdivision
24 (a) of Section 1812.501 and who charges fees exclusively to
25 employers for those services. The exemption from regulation
26 provided by this subdivision does not apply to any person who
27 provides babysitting or domestic employment for others. This
28 subdivision does not apply to an employment counseling service
29 as defined in subdivision (b) of Section 1812.501.

30 (b) This title shall not apply to any nonprofit corporation,
31 organized for the purpose of economic adjustment, civic
32 betterment, and the giving of vocational guidance and placement
33 to its members, or others, including employment counseling
34 services, when all of the following conditions exist:

35 (1) None of the directors, officers, or employees thereof
36 receive any profit other than a nominal salary for services
37 performed for the organization or corporation.

38 (2) No fee is charged for those services, though a voluntary
39 contribution may be requested.

1 (3) Membership dues or fees charged are used solely for
2 maintenance of the organization or corporation.

3 (c) Nothing in this title shall apply to a nonprofit corporation
4 that has been formed in good faith for the promotion and
5 advancement of the general professional interests of its members
6 and that maintains a placement service principally engaged in
7 securing employment for those members with the state or any
8 county, city, district, or other public agency under contracts
9 providing employment for one year or longer, or any nonprofit
10 corporation exempted by subdivision (b).

11 (d) This title shall not apply to a labor organization as defined
12 in Section 1117 of the Labor Code, a newspaper of general
13 circulation, bona fide newsletter, magazine, trade, or professional
14 journal, or other publication of general circulation, the main
15 purpose of which is dissemination of news, reports, trade or
16 professional information, or information not intended to assist in
17 locating, securing, or procuring employment or assignments for
18 others.

19 (e) As used in this title, “employment agency” or “agency”
20 does not include a nursing school, business school, or vocational
21 school, except that if the school charges a fee for placement, the
22 school shall be an employment agency within the meaning of this
23 title.

24 (f) (1) A job listing service that meets the requirements
25 specified in paragraph (2) or (3) shall not be subject to any of the
26 following: Sections 1812.515, 1812.516, 1812.517, and
27 1812.518; subdivisions (a) and (b), and paragraph (3) of
28 subdivision (c), and subdivision (d) of Section 1812.519;
29 paragraph (2) of subdivision (b), and subdivisions (c), (d), (e), and
30 (f) of Section 1812.520; and Section 1812.521.

31 (2) A job listing service shall be exempt pursuant to paragraph
32 (1) if it complies with all of the following:

33 (A) Does not provide, offer, or imply the offer of, services
34 related to employment.

35 (B) Does not offer or sell lists of employers or job openings to
36 jobseekers on an in-person basis.

37 (C) Maintains records of all its advertisements, identified by
38 date and publication, and the sources of information used for the
39 preparation of lists of employers and job openings, from which can
40 be determined the accuracy of any statistics regarding success rate

1 or similar statistics used in its advertising, promotional materials,
2 or oral or written statements to jobseekers.

3 (D) Identifies, on each list of employers and job openings, its
4 general source of information for jobs included on that list when
5 the source of information is a publication or other public record.

6 (E) Provides, at or before the time of delivery of the list, a
7 prominent written statement to the jobseeker granting the
8 jobseeker a right to return the list for an immediate refund of the
9 purchase price during a stated period of time which expires not less
10 than 10 days from the date of delivery of the list. The list shall be
11 deemed returned upon delivery to the address from which it was
12 obtained or upon deposit in the mail properly addressed to that
13 address, with postage prepaid.

14 (3) A job listing service shall be exempt pursuant to paragraph
15 (1) if it complies with all of the following:

16 (A) A majority interest in the job listing service is owned by
17 one or more colleges or universities, or alumni associations
18 affiliated therewith, and each college or university is accredited by
19 both (i) an accrediting agency recognized as such by the United
20 States Department of Education and (ii) a member organization of
21 the Council of Postsecondary Accreditation.

22 (B) The job listing service provides services related to
23 employment exclusively for jobseekers who are the alumni of
24 colleges or universities specified in subparagraph (A).

25 (C) The job listing service does not require, as a condition to
26 receiving employment services, that the applicant have completed
27 courses or examinations beyond the requirements for graduation
28 from the college or university specified in subparagraph (A).

29 (D) More than 50 percent of the annual revenues received by
30 the job listing service are derived from paid subscriptions of
31 prospective employers.

32 SEC. 5. Section 1812.524 of the Civil Code is amended to
33 read:

34 1812.524. (a) “Nursing service” means the assignment of a
35 nurse, as a private duty, self-employed, licensed registered nurse,
36 licensed vocational nurse, or practical nurse to render service to a
37 patient under the direction or supervision of a physician or surgeon
38 registered to practice in this state.

39 (b) “Nurses’ registry” means a person who engages in the
40 business of obtaining and filling commitments for nursing service.

A nurses' registry which makes or plans to make referrals for nurses' employment other than private duty nursing shall comply with Chapters 1 (commencing with Section 1812.500) and 2 (commencing with Section 1812.503) of this title with respect to those referrals.

(c) "Private duty nurse" means a self-employed nurse rendering service in the care of either a physically or mentally ill patient under the direction of a physician or surgeon, but who is paid by either the patient or the designated agent of the patient and who accepts the responsibilities of a self-employed private contractor.

(d) ~~"Referral"~~ "Health care employment agency" means a private, for-profit or nonprofit, agency that is engaged in the business of referring workers to a general acute care hospital, acute psychiatric hospital, or other acute care facility, or an extended care facility, a skilled nursing facility, or an intermediate care facility, or a distinct part of a facility providing extended care, skilled nursing care, or intermediate care that is located in this state. A ~~referral~~ health care employment agency that makes or plans to make referrals for employment other than private duty nursing shall comply with Chapter 1 (commencing with Section 1812.500) and Chapter 2 (commencing with Section 1812.503) with respect to those referrals.

SEC. 6. Section 1812.525 of the Civil Code is amended to read:

1812.525. (a) Every nurses' registry and ~~referral~~ health care employment agency subject to this title shall maintain a bond issued by a surety company admitted to do business in this state. The principal sum of the bond shall be three thousand dollars (\$3,000). A copy of the bond shall be filed with the Secretary of State.

(b) The bond required by this section shall be in favor of, and payable to, the people of the State of California, and shall be conditioned that the person obtaining the bond will comply with this title and will pay all sums due any individual or group of individuals when the person or his or her representative, agent, or employee has received those sums. The bond shall be for the benefit of any person or persons damaged by any violation of this title or by fraud, dishonesty, misstatement, misrepresentation, deceit, unlawful acts or omissions, or failure to provide the

1 services of the nurses' registry or ~~referral~~ *health care employment*
2 agency in performance of the contract with the jobseeker by the
3 nurses' registry or ~~referral~~ *health care employment* agency, or its
4 agents, representatives, or employees while acting within the
5 scope of their employment.

6 (c) (1) No nurses' registry or ~~referral~~ *health care employment*
7 agency shall conduct any business without having a current surety
8 bond in the amount prescribed by this title and filing a copy of the
9 bond with the Secretary of State.

10 (2) Thirty days prior to the cancellation or termination of any
11 surety bond required by this section, the surety shall send a written
12 notice of that cancellation or termination to both the nurses'
13 registry or ~~referral~~ *health care employment* agency and the
14 Secretary of State, identifying the bond and the date of
15 cancellation or termination.

16 (3) If any nurses' registry or ~~referral~~ *health care employment*
17 agency fails to obtain a new bond and file a copy of that bond with
18 the Secretary of State by the effective date of the cancellation or
19 termination of the former bond, the nurses' registry or ~~referral~~
20 *health care employment* agency shall cease to conduct any
21 business unless and until a new surety bond is obtained and a copy
22 of that bond is filed with the Secretary of State.

23 (d) When a deposit has been made in lieu of a bond pursuant to
24 Section 995.710 of the Code of Civil Procedure, the person
25 asserting a claim against the deposit shall, in lieu of Section
26 996.430 of the Code of Civil Procedure, establish the claim by
27 furnishing evidence to the Secretary of State of a money judgment
28 entered by a court together with evidence that the claimant is a
29 person described in subdivision (b).

30 (e) When a person has established the claim with the Secretary
31 of State, the Secretary of State shall review and approve the claim
32 and enter the date of approval on the claim. The claim shall be
33 designated an "approved claim."

34 (f) When the first claim against a particular deposit has been
35 approved, it shall not be paid until the expiration of a period of 240
36 days after the date of its approval by the Secretary of State.
37 Subsequent claims that are approved by the Secretary of State
38 within the same 240-day period shall similarly not be paid until the
39 expiration of the 240-day period. Upon the expiration of the
40 240-day period, the Secretary of State shall pay all approved

claims from that 240-day period in full unless the deposit is insufficient, in which case each approved claim shall be paid a pro rata share of the deposit.

(g) When the Secretary of State approves the first claim against a particular deposit after the expiration of a 240-day period, the date of approval of that claim shall begin a new 240-day period to which subdivision (f) shall apply with respect to the amount remaining in the deposit.

(h) After a deposit is exhausted, no further claims shall be paid by the Secretary of State. Claimants who have had their claims paid in full or in part pursuant to subdivisions (f) and (g) shall not be required to return funds received from the deposit for the benefit of other claimants.

(i) When a deposit has been made in lieu of a bond, the amount of the deposit shall not be subject to attachment, garnishment, or execution with respect to an action or judgment against the nurses' registry or ~~referral~~ *health care employment* agency, other than as to an amount as no longer needed or required for the purpose of this title that would otherwise be returned to the nurses' registry or ~~referral~~ *health care employment* agency by the Secretary of State.

(j) (1) The Secretary of State shall retain a cash deposit for two years from the date the Secretary of State receives written notification from the assignor of the deposit that the assignor has ceased to engage in the business of a nurses' registry or ~~referral~~ *health care employment* agency or has filed a bond pursuant to subdivision (a), provided that there are no outstanding claims against the deposit. The written notice to the Secretary of State shall include all of the following:

(A) Name, address, and telephone number of the assignor.

(B) Name, address, and telephone number of the bank at which the deposit is located.

(C) Account number of the deposit.

(D) A statement whether the assignor is ceasing to engage in the business of a nurses' registry or ~~referral~~ *health care employment* agency or has filed a bond with the Secretary of State.

(2) The Secretary of State shall forward an acknowledgment of receipt of the written notice to the assignor at the address indicated therein, specifying the date of receipt of the written notice and anticipated date of release of the deposit, provided there are no outstanding claims against the deposit.

(k) A judge of a superior court may order the return of the deposit prior to the expiration of two years upon evidence satisfactory to the judge that there are no outstanding claims against the deposit or order the Secretary of State to retain the deposit for a specified period beyond the two years pursuant to subdivision (j) to resolve outstanding claims against the deposit.

(l) The Secretary of State shall charge a filing fee not to exceed the cost of filing the bond or deposit filed in lieu of a bond pursuant to Section 995.710 of the Code of Civil Procedure.

(m) The Secretary of State shall enforce the provisions of this chapter that govern the filing and maintenance of bonds and deposits in lieu of bonds.

SEC. 7. Section 1812.526 of the Civil Code is amended to read:

1812.526. Nurses' registries or ~~referral~~ or *health care employment* agencies may enter into a continuing contract with private duty nurses covering the assignment of those nurses by the nurses' registries or ~~referral~~ *health care employment* agencies. The continuing contract shall include all of the following:

(a) The name, address, and telephone number of the nurses' registry or ~~referral~~ *health care employment* agency.

(b) The name, address, and telephone number of the nurse.

(c) The current fee schedule of the nurses' registry or ~~referral~~ *health care employment* agency.

(d) The date of its execution by the nurses' registry or ~~referral~~ *health care employment* agency and the nurse.

(e) The contract shall specify that the provisions thereof are to govern only the assignment of private duty nurses and shall do all of the following:

(1) Designate the nurses' registry or ~~referral~~ *health care employment* agency as the continuous agent of the nurse for purposes of assignment.

(2) Provide that the contract in effect may be terminated at any time by written notice given by one to the other for any future assignment.

(3) Provide for delivery to the nurse at the time of the execution of the contract a written schedule of the rates of nurses' charges currently agreed to between the nurses' registry or ~~referral~~ *health care employment* agency and the nurse for the nurse's services to the patient.

1 (4) State that the nurses' registry or ~~referral~~ *health care*
2 *employment* agency will immediately notify the nurse in writing
3 of all subsequent changes in the rates to be charged the patient for
4 services, and that the nurse shall agree to abide by these rates.

5 (5) Contain express undertakings by the nurses' registry or
6 ~~referral~~ *health care employment* agency that it shall continuously
7 maintain true and correct records of orders and assignments as
8 provided in this title.

9 (6) Provide that the nurses' registry or ~~referral~~ *health care*
10 *employment* agency shall periodically and at least once each month
11 render to the nurse a written statement of all fees claimed to be due
12 the nurses' registry or ~~referral~~ *health care employment* agency, and
13 further that the statement shall adequately identify each
14 assignment as to the inception date and period of service covered
15 by the claim, including the name of the patient and the amount of
16 the service fee claimed.

17 (7) Contain appropriate wording advising the nurse of his or
18 her right to dispute the correctness of any service fee claimed by
19 the nurses' registry or ~~referral~~ *health care employment* agency in
20 the written statement referred to above, and that in the absence of
21 objections within a reasonable time, the service fee may be
22 presumed to be correctly charged.

23 (8) Include any other term, condition, or understanding agreed
24 upon between the nurses' registry or ~~referral~~ *health care*
25 *employment* agency and the nurse.

26 (f) Each contract shall be numbered consecutively in original
27 and duplicate, both to be signed by the nurse and the nurses'
28 registry or ~~referral~~ *health care employment* agency. The original
29 shall be given to the nurse and the duplicate shall be kept on file
30 at the nurses' registry or ~~referral~~ *health care employment* agency
31 within the nurse's records.

32 (g) The full agreement between the parties shall be contained
33 in a single document containing those elements set forth in this
34 section.

35 SEC. 8. Section 1812.527 of the Civil Code is amended to
36 read:

37 1812.527. (a) (1) A nurses' registry or ~~referral~~ *health care*
38 *employment* agency shall provide a copy of its fee schedule and
39 payment terms to any jobseeker from whom a fee or deposit is to

1 be received, prior to the jobseeker being interviewed by the
2 registry or ~~referral~~ *health care employment* agency.

3 (2) In the schedule, the maximum fee shall be fixed and shall
4 include the charges of every kind rendered by the nurses' registry
5 or ~~referral~~ *health care employment* agency in each case or
6 transaction on behalf of the jobseeker. Changes in the fee schedule
7 may be made, but no change shall become effective until posted
8 for not less than seven days in a conspicuous place in the nurses'
9 registry or ~~referral~~ *health care employment* agency.

10 (3) A copy of the schedule in effect shall be kept posted in the
11 nurses' registry or ~~referral~~ *health care employment* agency in a
12 conspicuous place, and the posted schedule and the changes
13 therein shall be in lettering or printing of not less than standard pica
14 capitals. The date of the taking effect of the schedule and of each
15 change therein shall appear on the posted copies.

16 (4) A copy of all fee schedules, and of all changes therein, shall
17 be kept on file at the nurses' registry or ~~referral~~ *health care*
18 *employment* agency, retrospectively for a period of one year.

19 (b) A nurses' registry or ~~referral~~ *health care employment*
20 agency shall periodically and at least once each month render to
21 a referred worker a written statement of the fees received by the
22 nurses' registry or ~~referral~~ *health care employment* agency for that
23 worker's work, including an hourly rate.

24 SEC. 9. Section 1812.528 of the Civil Code is amended to
25 read:

26 1812.528. It shall be the duty of the nurses' registry or ~~referral~~
27 *health care employment* agency to verify in writing the claims as
28 to the experience or training listed on the application and to keep
29 a file of those records in the jobseeker's folder within the nurses'
30 registry or ~~referral~~ *health care employment* agency. It shall also be
31 the duty of the person interviewing the jobseeker to require the
32 jobseeker to exhibit his or her license as issued by the Board of
33 Registered Nursing or the Board of Vocational Nurse and
34 Psychiatric Technician Examiners, with a notation to be made on
35 the application by the interviewer that the license has been
36 inspected and the date of expiration of the license.

37 SEC. 10. Section 1812.529 of the Civil Code is amended to
38 read:

39 1812.529. Each nurses' registry or ~~referral~~ *health care*
40 *employment* agency shall continuously maintain in its offices true

1 and correct permanent log sheets and other records that shall
2 disclose, in addition to the other information required, the date and
3 hour of the receipt by the nurses' registry or ~~referral~~ *health care*
4 *employment* agency of each order for a private duty nurse, and the
5 date and hour of the making or giving of each assignment to the
6 nurse by the nurses' registry or ~~referral~~ *health care employment*
7 agency, the name of the nurse assigned, the name of the patient and
8 the address where the nurse is assigned, the name of the attending
9 physician, the date the assignment is to start, the period of actual
10 service for each assignment, and the amount of the fee charged for
11 each assignment. No nurses' registry or ~~referral~~ *health care*
12 *employment* agency, or his or her agent or employees, shall make
13 any false entry in those records. The nurses' registry or ~~referral~~
14 *health care employment* agency shall maintain the log sheets and
15 records required by this section respectively for a period of one
16 year.

17 SEC. 11. Section 1812.530 of the Civil Code is amended to
18 read:

19 1812.530. (a) No nurses' registry or ~~referral~~ *health care*
20 *employment* agency shall accept, directly or indirectly, a
21 registration fee of any kind.

22 (b) No nurses' registry or ~~referral~~ *health care employment*
23 agency may take from a jobseeker a confession of judgment, or
24 promissory note, or an assignment of wages to cover its fees.

25 SEC. 12. Section 1812.531 of the Civil Code is amended to
26 read:

27 1812.531. No nurses' registry or ~~referral~~ *health care*
28 *employment* agency shall divide fees with any physician and
29 surgeon, nurse, hospital, patient, or any agent or employee of any
30 of these.

31 SEC. 13. Section 1812.532 of the Civil Code is amended to
32 read:

33 1812.532. In the event that a nurses' registry or ~~referral~~ *health*
34 *care employment* agency collects from a jobseeker a fee or
35 expenses for an assignment, and the jobseeker fails to obtain the
36 assignment or fails to be paid for the assignment, the nurses'
37 registry or ~~referral~~ *health care employment* agency shall upon
38 demand therefor, repay to the jobseeker the fee and expenses so
39 collected. Unless repayment is made within 48 hours after
40 demand, the nurses' registry or ~~referral~~ *health care employment*

1 agency shall pay to the jobseeker an additional sum equal to the
2 amount of the fee.

3 SEC. 14. Section 1812.533 of the Civil Code is amended to
4 read:

5 1812.533. (a) No nurses' registry or ~~referral~~ *health care*
6 *employment* agency shall make, or cause to be made, any false,
7 misleading, or deceptive advertisements or representations
8 concerning the services to be provided to jobseekers.

9 (b) (1) No nurses' registry or ~~referral~~ *health care employment*
10 agency shall publish or cause to be published any false, fraudulent,
11 or misleading information, representation, notice, or
12 advertisements.

13 (2) All advertisements of a nurses' registry or ~~referral~~ *health*
14 *care employment* agency shall contain the correct name of the
15 nurses' registry or ~~referral~~ *health care employment* agency and at
16 least one of either of the following:

17 (A) The street address of the nurses' registry's or ~~referral~~ *health*
18 *care employment* agency's place of business.

19 (B) The correct telephone number of the nurses' registry or
20 ~~referral~~ *health care employment* agency at its place of business.

21 (3) No nurses' registry or ~~referral~~ *health care employment*
22 agency shall give any false information or make any false promises
23 or representations concerning an assignment or employment to
24 any jobseeker who registers or applies for an assignment or
25 employment.

26 (4) No nurses' registry or ~~referral~~ *health care employment*
27 agency shall, by its name, advertisement, or any other
28 representation, represent itself to be a home health agency, as
29 defined by subdivision (a) of Section 1727 of the Health and Safety
30 Code, or to perform the services of a home health agency. A
31 nurses' registry or ~~referral~~ *health care employment* agency shall
32 provide a written disclosure to each individual receiving nursing
33 services, as defined in subdivision (a) of Section 1812.524, in his
34 or her place of residence stating that it does not perform the
35 services of a home health agency and clearly describing that it is
36 a nurses' registry or ~~referral~~ *health care employment* agency only
37 and that any complaints against licensed personnel providing a
38 nursing service shall be brought to the local district attorney and
39 the Department of Consumer Affairs. The address and telephone
40 number of each agency and board to which complaints are required

1 to be submitted shall be provided to all patients prior to the time
2 they are under the care of any nursing services personnel.

3 (5) Any person may refer complaints concerning nurses'
4 registries or ~~referral~~ *health care employment* agencies to the proper
5 law enforcement agency for action.

6 (c) Every nurses' registry or ~~referral~~ *health care employment*
7 agency shall maintain a record of all advertisements, correlated to
8 show the date and the publication in which the advertisement
9 appeared, retrospectively for a period of one year.

10 SEC. 15. Section 1264.1 is added to the Health and Safety
11 Code, to read:

12 1264.1. (a) A health facility may not use an employee on a
13 temporary basis when a permanent employee with appropriate
14 qualifications is, or should be known by the employer to be,
15 available to work.

16 (b) Any health facility that uses an employee on a temporary
17 basis shall do all of the following:

18 (1) Commensurate with evaluations provided for permanent
19 employees, evaluate that employee prior to the employee starting
20 work, evaluate the employee again within two days of
21 employment, and thereafter, at a minimum, evaluate the employee
22 as often as permanent employees performing similar work are
23 evaluated.

24 (2) Commensurate with orientations provided for permanent
25 employees, provide an orientation for that employee prior to the
26 employee starting work.

27 ~~SEC. 16. Section 1264.2 is added to the Health and Safety~~
28 ~~Code, to read:~~

29 ~~1264.2. Prior to hiring a worker, other than a certified or~~
30 ~~licensed health care practitioner, a health facility that is a covered~~
31 ~~facility, as defined in subdivision (a) of Section 1400, shall ensure~~
32 ~~that a background check is conducted for all of the following:~~

33 ~~(a) Unprofessional conduct, that includes, but is not limited to,~~
34 ~~all of the following:~~

35 ~~(1) Incompetence or gross negligence in carrying out usual~~
36 ~~certified or licensed health care functions.~~

37 ~~(2) A conviction of practicing medicine without a license in~~
38 ~~violation of Chapter 5 (commencing with Section 2000) of~~
39 ~~Division 2 of the Business and Professions Code.~~

~~(3) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by any state or territory of the United States or by any government agency.~~

~~(b) Conviction of a felony or of any offense substantially related to the worker's qualifications, functions, and duties.~~

~~(c) Aiding or assisting, or agreeing to aid or assist, any person or persons, whether a licensed physician or not, in the performance of, or arranging for, a violation of Article 12 (commencing with Section 2220) of Chapter 5 of Division 2 of the Business and Professions Code.~~

~~(d) Except for good cause, the knowing failure to protect patients by failing to follow applicable infection control guidelines, thereby risking transmission of blood-borne infectious diseases.~~

~~(e) Obtaining or possessing in violation of law, or prescribing, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administering to himself or herself, or furnishing or administering to another, any controlled substance as defined in Division 10 (commencing with Section 11000) or any dangerous drug or dangerous device as defined in Section 4022 of the Business and Professions Code.~~

~~(f) Using any controlled substance as defined in Division 10 (commencing with Section 11000), or any dangerous drug or dangerous device as defined in Section 4022 of the Business and Professions Code, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that the use impairs his or her ability to conduct with safety to the public his or her job duties.~~

~~(g) Being convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivision (f), or the possession of, or falsification of a record pertaining to, the substances described in subdivision (f).~~

~~(h) Being committed or confined by a court of competent jurisdiction for intemperate use of or addiction to the use of any of the substances described in subdivision (f).~~

~~(i) Falsifying, or making grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or~~

1 other record pertaining to the substances described in subdivision
2 (f).

3 ~~SEC. 17. Chapter 2.3 (commencing with Section 1400) of~~
4 ~~Division 2 of the Health and Safety Code is repealed.~~

5 ~~SEC. 18. Chapter 2.3 (commencing with Section 1400) is~~
6 ~~added to Division 2 of the Health and Safety Code, to read:~~

7
8 ~~CHAPTER 2.3. HEALTH CARE REFERRAL AGENCIES~~

9 ~~SEC. 16. Chapter 2.32 (commencing with Section 1414) is~~
10 ~~added to Division 2 of the Health and Safety Code, to read:~~

11
12 ~~CHAPTER 2.32. HEALTH CARE EMPLOYMENT AGENCIES~~

13
14 ~~Article 1. General Provisions~~

15
16 ~~1400.—~~

17 ~~1414.~~ As used in this chapter, the following definitions apply:

18 (a) “Covered facility” means a general acute care hospital,
19 acute psychiatric hospital, or other acute care facility, or an
20 extended care facility, skilled nursing facility, or intermediate care
21 facility, or a distinct part of a facility providing extended care
22 services, skilled nursing care, or intermediate care, that is located
23 in this state.

24 (b) ~~“Referral”~~ “Health care employment agency” means a
25 private, for-profit or nonprofit, agency that is engaged in the
26 business of referring workers to a covered facility.

27 ~~1400.1.—(a) A referral~~

28 ~~1414.1.~~ (a) A health care employment agency may not refer
29 workers to a covered facility unless the ~~referral~~ health care
30 employment agency has obtained a written license as provided in
31 this chapter.

32 (b) A ~~referral~~ health care employment agency may not refer a
33 worker who is required to be licensed or certified by the laws of
34 this state to a covered facility without ensuring that the worker is
35 licensed or certified.

36 ~~1400.2.—~~

37 ~~1414.2.~~ (a) An application for a license or renewal of license
38 under this chapter shall be accompanied by a fee established by the
39 department. Each license shall expire 12 months from its date of
40 issuance and an application for renewal accompanied by the fee

1 shall be filed with the director not later than 10 days prior to the
2 date of expiration.

3 (b) The fee established pursuant to subdivision (a) shall be
4 sufficient to administer this chapter without the use of other state
5 resources, and shall be adjusted annually. Those adjustments shall
6 be rounded to the nearest whole dollar amount.

7 ~~1400.3.—~~

8 *1414.3.* A licensee under this chapter may not have a direct or
9 indirect financial interest in a covered medical facility doing
10 business with the licensee.

11 ~~1400.4.—~~

12 *1414.4.* A license application shall be submitted to the
13 department whenever any of the following circumstances occur:

14 (a) Change of ownership of the ~~referral~~ *health care employment*
15 agency.

16 (b) Change of name of the ~~referral~~ *health care employment*
17 agency.

18 (c) Change of location of the ~~referral~~ *health care employment*
19 agency.

20 ~~1400.5.—~~

21 *1414.5.* A person or entity desiring to obtain a license shall file
22 with the department an application on forms furnished by the
23 department. The application shall contain all of the following:

24 (a) The name of the applicant, and if an individual, whether the
25 applicant has attained the age of 18 years.

26 (b) The name of the ~~referral~~ *health care employment* agency.

27 (c) The location of the ~~referral~~ *health care employment* agency.

28 (d) The business or occupation engaged in by each applicant,
29 and by each partner, officer, and director, for at least two years
30 immediately preceding the filing of the application. In addition,
31 each person shall submit a statement setting forth whether he or she
32 has previously engaged in the operation of a ~~referral~~ *health care*
33 *employment* agency, whether he or she has been involved in, or the
34 subject of, a refusal or revocation of a ~~referral~~ *health care*
35 *employment* agency license, and whether he or she has been
36 convicted of a crime other than a minor traffic offense.

37 (e) If the applicant is a corporation, the name and principal
38 business address of each officer and director of the corporation,
39 and for nonpublic corporations, the name and business address of
40 each stockholder owning 10 percent or more of the stock and the

1 name and business address of any corporation member who has
2 responsibility in the operation of the facility.

3 (f) If the applicant is a partnership, the name and principal
4 business address of each partner.

5 (g) Evidence of the right to occupy the premises where the
6 ~~referral~~ *health care employment* agency is to be located.

7 (h) A copy of the partnership agreement or the Articles of
8 Incorporation, if applicable.

9 (i) A copy of the current organization chart.

10 (j) A schedule of fees to be charged and collected by the
11 ~~referral~~ *health care employment* agency, and a statement of the
12 method by which each fee is to be computed or determined.

13 (k) A declaration that the licensee will not have a financial
14 interest in a covered facility doing business with the ~~referral~~ *health*
15 *care employment* agency.

16 (l) Evidence satisfactory to the department that the applicant
17 demonstrates reputable and responsible character and the
18 capability to comply with this chapter.

19 (m) A copy of any contract entered into with a covered facility
20 during the prior 12 months.

21 ~~1400.6.—~~

22 *1414.6.* (a) A licensee desiring to voluntarily surrender his or
23 her license for cancellation or temporary suspension shall notify
24 the department in writing as soon as possible and, in all cases, at
25 least 30 days prior to the effective date of cancellation or
26 temporary suspension of the license.

27 (b) A license placed in temporary suspension pursuant to this
28 section may be reinstated by the department within 12 months of
29 the date of the voluntary suspension on receipt of an application
30 and evidence showing compliance with licensing requirements.

31 ~~1400.7.—~~

32 *1414.7.* (a) Upon verification of compliance with this
33 chapter and with the approval of the department, the department
34 shall issue the license to the applicant.

35 (b) If the applicant is not in compliance with this chapter, the
36 department shall deny the applicant a license. Immediately upon
37 the denial of a license, the department shall notify the applicant in
38 writing. Within 20 days of receipt of the department's notice, the
39 applicant may present his or her written petition for a hearing to

1 the department. The proceedings shall be conducted by the
2 department in accordance with Section 100171.

3 ~~1400.8.—~~

4 ~~1414.8.~~ Separate licenses are required for ~~referral~~ *health care*
5 *employment* agencies that are maintained on separate,
6 noncontiguous premises.

7 ~~1400.9.—~~

8 ~~1414.9.~~ (a) Licenses issued pursuant to this chapter are not
9 transferable.

10 (b) The license or true copy thereof shall be conspicuously
11 posted in a prominent location accessible to public view.

12 ~~1401.—~~

13 ~~1414.10.~~ (a) The licensee shall notify the department in
14 writing within 10 days when a change of stockholder owning 10
15 percent or more of the nonpublic corporate stock occurs. The
16 notification shall include the name and principal mailing addresses
17 of the new stockholder.

18 (b) When a change of agency manager occurs, the licensee shall
19 notify the department, in writing, within 10 days of that change.
20 The notification shall include the name of the new agency
21 manager.

22 (c) Each licensee shall notify the department within 10 days, in
23 writing, of any change of the mailing address of the licensee. The
24 notification shall include the new mailing address of the licensee.

25 (d) When a change in the principal officer of a corporate
26 licensee, chairperson, president, or general manager occurs, the
27 licensee shall notify the department, in writing, within 10 days of
28 that change. The notification shall include the name and principal
29 business address of the new officer.

31 Article 2. Prerequisites For Referrals

32
33 ~~1402.—(a) A referral~~

34 ~~1415.~~ (a) A *health care employment* agency may not refer a
35 health care practitioner certified or licensed in California to a
36 covered facility on a temporary basis unless that health care
37 practitioner has a valid license or certificate issued by the state that
38 is not a temporary or interim license or certificate.

39 (b) A ~~referral~~ *health care employment* agency may not refer a
40 health care practitioner certified or licensed in a state other than

1 California to a covered facility on a temporary basis unless that
2 health care practitioner also has a valid license or certificate that
3 is not a temporary or interim license or certificate.

4 ~~1402.1. Prior to referring a worker, other than a certified or~~
5 ~~licensed health care practitioner, to a covered facility on a~~
6 ~~temporary basis, the referral agency shall ensure that a background~~
7 ~~check is conducted for all of the following:~~

8 ~~(a) Unprofessional conduct, that includes, but is not limited to,~~
9 ~~all of the following:~~

10 ~~(1) Incompetence or gross negligence in carrying out usual~~
11 ~~certified or licensed health care functions.~~

12 ~~(2) A conviction of practicing medicine without a license in~~
13 ~~violation of Chapter 5 (commencing with Section 2000) of~~
14 ~~Division 2 of the Business and Professions Code.~~

15 ~~(3) Denial of licensure, revocation, suspension, restriction, or~~
16 ~~any other disciplinary action against a health care professional~~
17 ~~license or certificate by any state or territory of the United States~~
18 ~~or by any government agency.~~

19 ~~(b) Conviction of a felony or of any offense substantially~~
20 ~~related to the worker's qualifications, functions, and duties.~~

21 ~~(c) Aiding or assisting, or agreeing to aid or assist, any person~~
22 ~~or persons, whether a licensed physician or not, in the performance~~
23 ~~of, or arranging for, a violation of Article 12 (commencing with~~
24 ~~Section 2220) of Chapter 5 of Division 2 of the Business and~~
25 ~~Professions Code.~~

26 ~~(d) Except for good cause, the knowing failure to protect~~
27 ~~patients by failing to follow applicable infection control~~
28 ~~guidelines, thereby risking transmission of blood-borne infectious~~
29 ~~diseases.~~

30 ~~(e) Obtaining or possessing in violation of law, or prescribing,~~
31 ~~or except as directed by a licensed physician and surgeon, dentist,~~
32 ~~or podiatrist administering to himself or herself, or furnishing or~~
33 ~~administering to another, any controlled substance as defined in~~
34 ~~Division 10 (commencing with Section 11000) or any dangerous~~
35 ~~drug or dangerous device as defined in Section 4022 of the~~
36 ~~Business and Professions Code.~~

37 ~~(f) Using any controlled substance as defined in Division 10~~
38 ~~(commencing with Section 11000), or any dangerous drug or~~
39 ~~dangerous device as defined in Section 4022 of the Business and~~
40 ~~Professions Code, or alcoholic beverages, to an extent or in a~~

1 ~~manner dangerous or injurious to himself or herself, any other~~
2 ~~person, or the public or to the extent that the use impairs his or her~~
3 ~~ability to conduct with safety to the public his or her job duties.~~

4 ~~(g) Being convicted of a criminal offense involving the~~
5 ~~prescription, consumption, or self-administration of any of the~~
6 ~~substances described in subdivision (f), or the possession of, or~~
7 ~~falsification of a record pertaining to, the substances described in~~
8 ~~subdivision (f).~~

9 ~~(h) Being committed or confined by a court of competent~~
10 ~~jurisdiction for intemperate use of or addiction to the use of any of~~
11 ~~the substances described in subdivision (f).~~

12 ~~(i) Falsifying, or making grossly incorrect, grossly~~
13 ~~inconsistent, or unintelligible entries in any hospital, patient, or~~
14 ~~other record pertaining to the substances described in subdivision~~
15 ~~(f).~~

16 ~~1402.2.—~~

17 *1415.1.* Prior to referring a worker to a covered facility on a
18 temporary basis, the ~~referral~~ *health care employment* agency shall
19 provide to the covered facility a report of the worker's credentials
20 and prior health care experience that is not more than 30 days old.

21 ~~1402.3.— In addition to the requirement of Section 1402.2,~~
22 ~~prior to referring a worker other than a certified or licensed health~~
23 ~~care practitioner to a covered facility on a temporary basis, the~~
24 ~~referral agency shall provide the facility with a report of the~~
25 ~~background check conducted pursuant to Section 1402.1 that is not~~
26 ~~more than 30 days old.~~

Article 3. Penalties

30 ~~1403.—~~

31 *1415.4.* The department may suspend or revoke a license
32 issued under this chapter for a violation of this chapter or rules and
33 regulations relating to this chapter adopted by the department. In
34 addition, the department shall assess a civil penalty in the amount
35 of fees, income, or revenue received by a licensee that is in
36 violation of this chapter or rules and regulations relating to this
37 chapter adopted by the department. Proceedings to suspend or
38 revoke a license shall be conducted by the department pursuant to
39 Section 100171.

40 ~~1403.1.—~~

1 1415.5. A violation of this chapter or rules and regulations
2 relating to this chapter adopted by the department by a person
3 licensed pursuant to this division or a person certificated or
4 licensed pursuant to Chapter 14 (commencing with Section 4990)
5 of Division 2 of the Business and Professions Code may be
6 grounds for suspension or revocation of the person's license.

7 ~~1403.2.—~~

8 1415.6. A person or entity that violates this chapter is liable
9 for a civil penalty in the amount of the remuneration, fees, income,
10 or revenue illegally received plus the amount of wages paid to an
11 employee hired in violation of this chapter, which shall be assessed
12 and recovered in a civil action brought in the name of the people
13 of the State of California by the Attorney General, or by any person
14 acting on behalf of himself or herself or the general public, in any
15 court of competent jurisdiction. If this action results in a recovery
16 of penalties or the cessation of activities that violate this article, the
17 court shall award attorney's fees and costs to the Attorney General
18 or person who brought suit.

19 ~~1403.3.—~~

20 1415.7. All civil penalties collected pursuant to this article
21 shall be paid to the State Treasury.

22 ~~SEC. 19.—~~

23 SEC. 17. No reimbursement is required by this act pursuant
24 to Section 6 of Article XIII B of the California Constitution
25 because the only costs that may be incurred by a local agency or
26 school district will be incurred because this act creates a new crime
27 or infraction, eliminates a crime or infraction, or changes the
28 penalty for a crime or infraction, within the meaning of Section
29 17556 of the Government Code, or changes the definition of a
30 crime within the meaning of Section 6 of Article XIII B of the
31 California Constitution.

